

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DARIN MICHAEL McCALL,                          )  
    )  
    )  
Petitioner,   )  
  )  
  )  
vs.    )      Case No. 4:16CV00796 SNLJ  
  )  
  )  
DEAN MINOR,                                        )  
  )  
  )  
Respondent.   )

**MEMORANDUM AND ORDER**

This matter is before me on the petition for writ of habeas corpus filed by Petitioner Darin Michael McCall. I referred this matter to United States Magistrate Judge John M. Bodenhausen for a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b). On January 12, 2018, Judge Bodenhausen filed his recommendation that McCall's habeas petition should be dismissed.

No objections to Judge Bodenhausen's Report and Recommendation were filed. After careful consideration, I will adopt and sustain the thorough reasoning of Judge Bodenhausen and deny McCall's' habeas petition for the reasons stated in the Report and Recommendation dated January 12, 2018.

I have also considered whether to issue a certificate of appealability. To grant a certificate of appealability, the Court must find a substantial showing of the denial of a federal constitutional right. *See Tiedeman v. Benson*, 122 F.3d 518, 522 (8th Cir. 1997). A substantial showing is a showing that issues are debatable among reasonable jurists, a Court could resolve the issues differently, or the issues deserve further proceedings. *Cox*

*v. Norris*, 133 F.3d 565, 569 (8th Cir. 1997) (citing *Flieger v. Delo*, 16 F.3d 878, 882-83 (8th Cir. 1994)). Because McCall has not made such a showing in this case, I will not issue a certificate of appealability.

Accordingly,

**IT IS HEREBY ORDERED** that Judge Bodenhausen's Report and Recommendation, #7, filed January 12, 2018 is adopted and sustained in its entirety.

**IT IS FURTHER ORDERED** that Petitioner's Petition for Writ of Habeas Corpus, #1, is **DENIED**.

**IT IS FURTHER ORDERED** that the Court will not issue a certificate of appealability. A separate Judgment in accordance with this Memorandum and Order is entered this same date.

Dated this 21<sup>st</sup> day of March, 2018.



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STEPHEN N. LIMBAUGH, JR.  
UNITED STATES DISTRICT JUDGE